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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,120	03/11/2004	Graeme Scott Attey	D5053-00032	8243

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DUANE MORRIS LLP
P. O. BOX 1003
305 NORTH FRONT STREET, 5TH FLOOR
HARRISBURG, PA 17108-1003

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,120

Applicant(s)

ATTEY, GRAEME SCOTT

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 30 July 2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

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Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on a foreign application. No copy of the foreign application has been received from the international office.

Claim Objections

2. Claims 10 and 16 are objected to because of the following informalities: in claim 10, line 2, "cable" should be - -cable means- - for agreement with the recitation in claim 9; in claim 10, line 4, "brake" should be - -braking- - for agreement with the recitation in claim 9; in claim 16, line 1, "claims" should be - -claim- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 appears to recite the same limitations as claim 10, from which it directly depends. It is not clear how claim 11 further limits the scope of claim 10.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 3, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Krasnoff et al. (US 3,006,659). Krasnoff et al. teach a riding board adapted for use with both feet of a user, including a board member (60), front (34) and rear (42) wheels mounted for rotation about respective axles (figure 1) and further comprises a brake which comprises a braking member (122) adapted for engagement with a lower leg portion of a user's leg, the brake for operating the rear, trailing, wheel; the member acting indirectly on the entire wheel, including its rim, to the breadth claimed, the member comprising an upstanding portion (122) and a pivot (proximate 124, 125), the member being biased away from the wheel (by 132).

6. Claims 1, 2, 3, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Andorsen et al. (US 4,033,596). Andorsen et al. teach a riding board including a board member (10), front (11) and rear (14) wheels mounted for rotation about respective axles (13, 15) and further comprises a brake which comprises a braking member (18, 24) adapted for engagement with a foot or lower calf portion of a user's leg (25), the brake for operating on the rear, trailing, wheel; the member acting indirectly on the entire wheel, including its rim, to the breadth claimed, the member comprising an upstanding portion (18, 24) and a pivot (proximate 20), the member being biased away from the wheel (by 27).

7. Claims 1, 2, 3, 6, 7, 8 and 9 are rejected under 35 U.S.C. 102(a) and/or (e) as being anticipated by Rosso et al. (WO 00/53276). Rosso et al. teach a riding board which is not limited from accommodating both feet of a user, including a board member

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(24), front (22) and rear (16) wheels mounted for rotation about respective axles (figure 1) and further comprises a brake which comprises a braking member (44) adapted for engagement with a foot or lower calf portion of a user's leg (36), the brake for operating on the rear, trailing, wheel; the member acting indirectly on the entire wheel, including its rim, to the breadth claimed, the member comprising an upstanding portion (36) and a pivot (junction of 44 and 37), the member being biased away from the wheel (48, 49), wherein the brake additionally includes an upright plate portion (top of 37), positioned forwardly of the braking member, a flexible cable means being fixed to the upstanding plate, the cable being operationally connected to the braking member so that movement of the braking member causes a braking force to be applied to the wheel.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andorsen et al. (cited above). The reference to Andorsen et al. is discussed above, and fails to explicitly teach that the board member is adapted to accommodate a user riding with both feet thereon. While the reference to Andorsen et al. teaches a single foot binding, the reference is not explicitly limited from accommodating both feet of a user, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the board taught by Andorsen to accommodate both of a user's feet to achieve a more compact monoski- or snowboard-like configuration.

10. Claims 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosso et al. (cited above). The reference to Rosso et al. is discussed above, and fails to explicitly teach that the board member is adapted to accommodate a user riding with both feet thereon. While the reference to Rosso et al. teaches a single foot binding,

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the reference is not explicitly limited from accommodating both feet of a user, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the board taught by Andorsen to accommodate both of a user's feet to achieve a more compact monoski- or snowboard-like configuration.

11. Claims 10, 11, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosso et al. in view of Gates (US 5,251,934). The reference to Rosso et al. is discussed above and fails to teach the cable being connected to a brake device having opposed brake pad elements and moving arms, so connected with the brake member as to cause the brake pads to engage the wheel when the brake member is moved. Gates teaches a very well known cable braking arrangement wherein a cable (70, 60, 62) causes the operation of a first and second pair of movable arms (10, 42, 50) which engage brake pads (52) with a wheel portion to slow the wheel. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the brake actuator taught by Gates in place of the band brake taught by Rosso et al. for the purpose of allowing the brakes to be made using commonly available caliper-style brake components, thus reducing manufacturing costs and allowing easier field replacements.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Edwards (US 4,275,895), Banda (US 5,927,733), Johnson (US 6,082,768), Ireton (US 6,488,296), and Lacher (DE 2,925,555) teach wheeled gliding board devices of pertinence.

13. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
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Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326
After Final Amendments: 703-872-9327
Customer Service Communications: 703-872-9325

F. VANAMAN
Primary Examiner
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5/9/05